IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FOURTEENTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE Mr. JUSTICE C.V.RAMULU

WRIT PETITION No.12171 of 1998

Between:

B.Narsimha Murthy, S/o late B.V.Raju,
R/o Devangulu Veedhi, Seethanagaram, E.G.District.

..... PETITIONER

AND

1 Deputy Chief Personnel Manager,
A.P.S.R.T.C., Vizianagaram Zone, Vizianagaram, A.P.
2 The Divisional Manager, A.P.S.R.T.C.,
Rajahmundry, E.G.District
3 The Chairman & Managing Director, A.P.S.R.T.C.,
Musheerabad, Hyderabad

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, order or direction one more particularly in the Nature of Mandamus (a) declaring the action of the respondents in passing the impugned orders A.P.S.R.T.C., No.E4/684/ED/VZM dt.4-2-97; as illegal, arbitrary and set aside the same; (b) further directing the respondents to appoint the petitioner as Conductor Grade-III, forthwith in pursuance of the interview conducted on 25-4-96 by Selection Committee or any other suitable post under the control of the respondents Corporation.

Counsel for the Petitioner: Mr. W.B.SRINIVAS

Counsel for the Respondents: Mr. Y.VIVEKANANDA SWAMY

The Court made the following :

ORAL ORDER:

This Writ Petition is filed seeking a Mandamus to declare the Order of the 1st respondent dated 4-2-1997 as arbitrary and illegal and consequently to direct the respondents to appoint the petitioner as Conductor Grade III in pursuance of the interview conducted on 25-4-1996 by the selection committee.

It is the case of the petitioner that his father late B.V.Raju, who was working as a Driver in the respondent-Corporation died in harness on 9-6-1986. Since he was minor, immediately he could not file any application for appointment under the Bread Winner Scheme. In fact, his mother approached the authorities and she was assured that his case would be considered after attaining majority. Accordingly, on attaining majority in the year 1992, the 2nd respondent vide his Proceedings dated 25-2-1992 called him to appear for interview for appointment under the Bread Winner Scheme. Thereafter, vide other Proceedings of the 2nd respondent dated 31-10-1992, 7-11-1992 and 20-11-1993 he was called for interview for appointment under the said scheme. In fact, he was selected as Cleaner and sent for training from 28-1-1994 to 11-2-1994 at the Regional Workshop, Vizianagaram. After undergoing the training, the Personnel Manager, Rajahmundry vide his Proceedings dated 23-8-1995 called for interview for the post of Conductor from among the Cleaners after being identified him as the deceased employee's son, on 25-4-1996. Though he appeared for the interview, he was not given appointment. Therefore, he filed W.P.No.26863 of 1996, which was disposed of on 17-12-1996 to consider his case for suitable employment under compassionate grounds. After considering his case, in pursuance of the directions of this Court, the 1st respondent issued Proceedings dated 4-2-1997 stating that the Selection Committee, which met on 25-4-1996 in the Executive

Director's Office, Vizianagaram had interviewed him and after perusal of the records/certificates, has provisionally selected him for the post of Conductor Grade III, subject to relaxation as he did not attain the age of eligibility at the time when he applied for the post. However, the Vice Chairman and Managing Director, 3rd respondent herein, who was the appropriate authority to consider the relaxation of the limit of three years, did not agree for the proposal to condone the delay in making the application for considering his case for appointment on compassionate grounds. Hence, this Writ Petition.

A detailed counter affidavit has been filed on behalf of the respondents denying the allegations made by the petitioner. It is *inter alia* stated that the petitioner's father expired on 9-6-1986. For the first time, the representation for compassionate appointment was made by the petitioner on 17-12-1991. Thereafter, the petitioner was called for interview on 7-11-1992 along with other candidates. After conducting interview, the selection committee issued the Proceedings dated 3-12-1993 identifying him as a Cleaner, subject to certification of Depot Manager, Rajahmundry depot to the effect that no monetary amount was paid in lieu of employment. He was not appointed as Cleaner for want of vacancies at that time. Further, while conducting recruitment of deceased employees' sons, 23 applications including that of the petitioner were placed before the selection committee and interviews were conducted on 25-4-1996. The Committee provisionally selected 10 candidates for the post of Conductor Grade III, subject to relaxation of age, as the petitioner was underaged and not attained the age of eligibility for the post of Conductor at the time of submission of application. The Committee also suggested to see the feasibility of obtaining sanction of the competent authority for relaxation for the time barred claim, keeping in view the death of the petitioner's father in harness. As per the Circular instructions contained in Circular No.PD-89/89, dated 24-7-1989 of the 3rd respondent, the dependant has to submit application within three years from the date of death of the deceased. Since the 3rd respondent did not agree to condone delay in making application, the petitioner's case was rejected. In fact, it was asserted that the 3rd respondent had found that 'the selection committee made a mistake in identifying the petitioner for a post, even though his application was belated i.e. made in the year 1991'. Ultimately, the respondents sought for dismissal of the Writ Petition.

I have given my earnest consideration to the respective submissions made by the learned counsel for the parties and gone through the entire material made available on record.

It is an unfortunate case that when the father of the petitioner died on 9-6-1986, the petitioner was, admittedly, a minor. As per the circular instructions issued by the respondent-Corporation vide Circular dated 24-7-1989, even if a person is minor at the time of death of his father, he may claim employment, provided he attains majority within three years thereafter. But, this is a case where the petitioner attained the age of majority only in the year 1991, whereas his father expired in the year 1986. However, the authorities without verifying the facts called him for interview on 7-11-1992, 3-12-1993 and 28-1-1994, but he was never selected and appointed. Only when a person is selected and appointed, other aspects as to relaxation of conditions would be considered. The selection committee met on 25-4-1996 selected the petitioner, subject to relaxation as to the eligibility and condonation of delay in making the application by the 3rd respondent, as he did not apply within three years from the date of death of his father, since he was a minor. However, the 3rd respondent found that the father of the petitioner died in harness on 9-6-1986, whereas the application for compassionate appointment was made on 17-12-1991 and the question of relaxing the time limit for receipt of the application and considering the selection of the petitioner does not arise and thus rejected the proposal of the selection committee. I am of the considered opinion that the respondents have considered the case of the petitioner in accordance with the Circulars issued by the respondent-Corporation from time to time and the Circular instructions do not permit automatic appointment of a person on selection. The 3rd respondent exercised the discretion vested in him under the Regulations and rejected to relax the conditions. The impugned Proceedings do not suffer from any arbitrariness or illegality and, therefore, do not call for interference at the hands of this Court. The Writ Petition is, therefore, dismissed. No costs.

However, the learned counsel for the petitioner states that in lieu of employment, the mother of the petitioner Smt. B. Laxmi was asked to claim monetary benefits by letter dated 28-5-2001 of the Depot Manager Rajahmundry and since the Writ Petition is pending before this Court, the mother of the petitioner had not claimed the monetary benefits. In view of the dismissal of the Writ Petition, it is always open for the mother

of the petitioner to claim the monetary benefits in lieu of compassionate appointment in the respondent-Corporation as per the said Memo dated 28-5-2001 since the father of the petitioner died in harness.

14-6-2005

prk

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Chairman & Managing Director, A.P.S.R.T.C.,
Musheerabad, Hyderabad

2 Deputy Chief Personnel Manager,
A.P.S.R.T.C., Vizianagaram Zone, Vizianagaram, A.P.

3 The Divisional Manager, A.P.S.R.T.C.,
Rajahmundry, E.G.District

4 CD copies.